

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEITH A. KREIDER,	§
	§
Defendant Below-	§ No. 328, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 1006007366
Plaintiff Below-	§
Appellee.	§

Submitted: July 9, 2012

Decided: July 20, 2012

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 20th day of July 2012, it appears to the Court that:

(1) On June 15, 2012, this Court received appellant Keith Kreider's notice of appeal from a Superior Court order, dated May 10, 2012, sentencing him for a violation of probation (VOP). Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before June 11, 2012.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Kreider to show cause why the appeal should not be dismissed as untimely filed.¹ Kreider filed a response to the notice to show cause on June 26, 2012. He asserts that he could not file his appeal earlier because he did not have

¹Del. Supr. Ct. R. 6(a)(ii) (2012).

access to the law library in order to prepare his notice of appeal sooner and address the envelope properly.² He states that he gave his notice of appeal to correctional personnel to mail on June 7, within the limitations period. He asks that his untimely filing be excused.

(3) Time is a jurisdictional requirement.³ A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.⁴ This Court recently reaffirmed its holding that an appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of 10 Del. C. § 147 and Delaware Supreme Court Rule 6.⁵ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁶

(4) Neither employees of the Department of Correction, or the United States Postal Service, or the Department of Justice are court personnel.⁷ There is nothing to reflect that Kreider's failure to timely file his notice of appeal in this case is attributable in any way to court personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a

² The record reflects that Kreider addressed his notice of appeal to the Department of Justice. The State acknowledges that Kreider's original notice of appeal was received by the Department of Justice on June 11, 2012.

³ *Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

⁴ Del. Supr. Ct. R. 10(a) (2012).

⁵ *Smith v. State*, 2012 WL 2821889, ___ A.3d ___ (Del. July 10, 2012); *Carr v. State*, 554 A.2d at 779.

⁶ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁷ *See Zuppo v. State*, 2011 WL 761523 (Del. Mar. 3, 2011).

notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice